

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL
FILE

RECEIVED

In the Matter of)
)
Petition for Clarification)
and Modification of)
Pay-Per-Call Rules Filed by)
the National Association of)
Attorneys General)

Petition for Rulemaking JUL 28 1992
RM No. 7990

Federal Communications Commission
Office of the Secretary

REPLY COMMENTS OF THE
AMERICAN PUBLIC COMMUNICATIONS COUNCIL

The American Public Communications Council ("APCC") hereby submits its reply comments in the above-referenced matter. As stated in its initial comments, APCC supports a prohibition of automatic billing of 800-dialed pay-per-call services to the originating line. Prohibiting automatic billing of charges for 800-dialed calls is in the public interest.

APCC has a particular concern that, if 800 numbers can be used for pay-per-call services, 800-dialed pay-per-call services will be dialed from independent payphones, and that the calls will be billed to the independent payphone provider's originating telephone line. To resolve this concern, the FCC should require that the pay-per-call service provider ("information provider" or "IP") obtain information sufficient to bill the call to the caller, and prohibit billing of 800-dialed pay-per-call charges to the originating ANI. The IP must ensure that the calling party, and not simply the originating line from which the call is placed, is billed.¹

¹ Pilgrim Telephone, Inc. ("Pilgrim") raised concerns about prohibiting carriers from providing 800 services which are used for (continued...)

No. of Copies rec'd
List A B C D E

076

Several parties suggested that billing the caller for 800-dialed pay-per-call charges would be acceptable if input of a valid credit card number is required or if the caller has a "presubscription relationship" with the IP.² Comments of the 900 Number Subcommittee of the Consumer Protection Committee, National Association of Attorneys General at 2; Comments of American Telephone and Telegraph Company at 3; Comments of MCI Telecommunications Corporation at 3.

Requiring input of a credit card number would address APCC's concerns by ensuring that the call would be billed to the calling party. It is unclear that reliance on a presubscription relationship to bill the 800-dialed call would ensure proper billing to the calling party. If the presubscription relationship requires that a customer have an identifier (such as a PIN) that

¹(...continued)
pay-per-call services. Comments of Pilgrim Telephone, Inc. at 4. Pilgrim argued that a prohibition on provision of 800 services for a particular use would involve carriers in monitoring calls. Id.

Carriers are already involved in monitoring the manner of use of their services; for example, tariffs generally prohibit use of the carrier's services for fraudulent or harassing calls. Pilgrim may be concerned about carrier involvement in monitoring content, but a restriction on the manner in which a service is used is not the same as restricting content, and does not raise First Amendment issues regarding content restriction.

In any event, if the Commission were to follow APCC's suggestion and prohibit billing of 800-dialed pay-per-call charges to the originating ANI (rather than prohibiting a specific use of 800 services) and require that IPs obtain sufficient billing information to bill the caller, carriers would not be involved in monitoring service use or content.

² AT&T, MCI, and Sprint have each amended their tariffs to include these restrictions on the use of their 800 services. See Comments of AT&T at 3; Comments of MCI at 3; Comments of Sprint at 3.

is associated with that customer's billing name and address, but is separate from the originating ANI from which the call is placed, 800-dialed calls could be billed to the calling party. It is critical that any identifier establishing a customer relationship with the IP be distinguished from the originating ANI so that the call is not improperly billed to the originating line. In order to ensure appropriate billing of pay-per-call charges to the calling party, the FCC should prohibit billing of 800-dialed pay-per-call charges to the originating ANI. In addition, IPs should be required to obtain enough information, either through use of a credit card or other means of identifying the calling party, to properly bill the calling party.

A number of other suggestions were made for handling 800-dialed pay-per-call charges. VoiceLink, Inc. commented that the caller could be required to enter the ANI to indicate acceptance of the charges for the call. Comments of VoiceLink, Inc. at 2. While entry of a telephone number might indicate acceptance of the charges, it does not necessarily indicate that the charges would be appropriately billed to the originating or the entered ANI. A caller could place an 800-dialed call from a payphone, an office telephone, or a friend's telephone. Billing 800-dialed pay-per-call charges to the originating ANI (whether by automatically obtaining the ANI or by manual entry of it) will result in increased fraudulent charges. Using ANI as a means of obtaining billing information for 800-dialed pay-per-call charges cannot be

accepted as sufficient to ensure that the proper party is billed and that fraudulent charges are not incurred.


VRS Billing Systems suggested that calls could be blocked on a "program-by-program basis." Comments of VRS Billing Systems at 4. Payphone providers cannot efficiently block every pay-per-call number. VRS Billing Systems may have been referring to local exchange carrier ("LEC") blocking of 800 numbers in a manner similar to LEC blocking of 900 numbers. However, the capability of blocking some, but not all, 800 numbers is not generally available from the local exchange carriers. See Comments of the United States Telephone Association at 2.

Absent the ability to block specified 800 numbers, the LECs would be faced with blocking all 800 numbers. However, blocking all 800 numbers would sacrifice the convenience of the toll-free 800 dialing to which consumers are accustomed. See Comments of SWBT at 3. Even if blocking specific 800 numbers could be effectively accomplished, it would be administratively complex and inefficient as a means of preventing improper billing. Assignment of a particular 800 number could change, for example, and the number might be unnecessarily blocked. A master list of all 800 numbers used for pay-per-call services would have to be maintained to determine which numbers to block. A number of issues would arise if a list of numbers to be blocked were to be used, including responsibility for maintaining the list, and responsibility for its completeness and accuracy.

VRS Billing Systems also suggested that LECs could simply "forgive" pay-per-call charges. Comments of VRS Billing Systems at 4. First, crediting charges after the fact imposes a burden on subscribers to seek credit for charges which should never have been charged to them. Second, it is an inefficient use of resources to have used the network and billing processes of a number of entities to complete a call, bill it, and then credit all charges. Third, it may be difficult to determine what charges should be credited because of the way in which 800-dialed pay-per-call charges have been billed. Consumer Action provided the example of a university being billed for calls students had placed via 800 dialing. Comments of Consumer Action at 2. The university's telephone bills reflected that the calls were collect calls originating from an ordinary telephone number. Id. APCC is informed that some 800-dialed pay-per-call charges have appeared on subscribers' bills as direct dialed calls to an ordinary telephone number. These types of billing practice make the 800-dialed pay-per-call charges difficult to detect. Obtaining a credit for improperly billed charges is, therefore, not a reasonable means of addressing the issue.

For the reasons described above, and in APCC's initial comments, the Commission should prohibit billing of 800-dialed pay-per-call charges to the originating ANI.

Respectfully submitted,



Albert H. Kramer
Robert F. Aldrich
Helen M. Hall

KECK, MAHIN & CATE
1202 New York Avenue, N.W.
Penthouse Suite
Washington, D.C. 20005
Telephone: 202-789-3400

Attorneys for the American Public
Communications Council

Dated: July 28, 1992